

Senate Bill No. 927

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 30, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add a chapter heading immediately preceding Section 1720 of Part 2 of, and to add Chapter 2 (commencing with Section 1745) to Part 2 of Division 6 of, the Harbors and Navigation Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

SB 927, Lowenthal. Ports: congestion relief: security enhancement: environmental mitigation: regulatory fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would require the Ports of Los Angeles and Long Beach to develop a process for collecting a user fee on the owner of container cargo moving through the Port of Los Angeles or the Port of Long Beach at a rate of \$30 per twenty-foot equivalent unit (TEU).

The bill would require each port to retain $\frac{1}{3}$ of the funds derived from imposition of the fee and transmit the remaining $\frac{2}{3}$ in the amount of $\frac{1}{2}$ to the Port Congestion Relief Trust Fund, which the bill would establish in the State Treasury, and $\frac{1}{2}$ to the Port Mitigation Relief Trust Fund, which the bill would establish in the State Treasury.

The bill would require each port to use the funds retained as specified above exclusively for the purpose of funding projects to improve the security of the port and to fund the administrative costs for implementing this program.

The bill would require each port, in selecting projects for funding, to consult with the United States Coast Guard, the federal Department of Homeland Security, the state Office of Homeland Security, the Department of the California Highway Patrol, and other state and federal agencies that may assist the ports in determining which projects are best suited to protecting the ports and their surrounding communities.

The bill would require the moneys transmitted to the Port Congestion Relief Trust Fund, as specified above, to be available, upon appropriation, for expenditure by the California Transportation Commission exclusively for the purposes of funding rail projects that improve the rail system moving port

container cargo to and from the ports, and funding the administrative costs of this program. The bill would prohibit moneys deposited in that fund from being loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

The bill would prohibit the commission from using the funds to construct, maintain, or improve highways.

The bill would require the commission to consult with the transportation commissions for the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura, and the Port and City of Los Angeles, the Port and City of Long Beach, and the Southern California Association of Governments in the process for selecting projects for funding.

The bill would require the moneys transmitted to the Port Mitigation Relief Trust Fund, as specified above, to be available, upon appropriation, for expenditure by the State Air Resources Board to develop a list of projects to mitigate environmental pollution caused by the movement of cargo to and from the ports, and for the administration of this program. The bill would prohibit moneys deposited in that fund from being loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

The bill would establish a state-mandated local program by imposing these additional duties upon the ports.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. A chapter heading is added immediately preceding Section 1720 of Part 2 of Division 6 of the Harbors and Navigation Code, to read:

CHAPTER 1. PORT FACILITY CONSTRUCTION

SEC. 2. Chapter 2 (commencing with Section 1745) is added to Part 2 of Division 6 of the Harbors and Navigation Code, to read:

CHAPTER 2. PORTS OF LOS ANGELES AND LONG BEACH

1745. (a) The Legislature hereby finds and declares all of the following:

(1) There is a need to mitigate the enormous burden imposed on the highway transportation system serving the Ports of Los Angeles and Long Beach by the overland movement of cargo shipped from and to those ports.

(2) Due to unanticipated growth at the ports and new federal security requirements that are applicable to those ports, it is necessary to enhance the security of the ports.

(3) The operation of the ports causes environmental pollution that requires mitigation.

(4) The improvement of goods movement infrastructure would benefit the owner of container cargo moving through the ports by allowing the owner of the cargo to move container cargo more efficiently and to move more cargo through those ports.

(5) The improvement of security at the ports would benefit the owner of container cargo by providing safe and secure facilities ensuring the safe and efficient movement of that container cargo.

(6) The reduction of goods movement pollution would benefit the owner of container cargo moving through the ports by meeting federal air quality standards, which will allow for continued federal funding of goods movement infrastructure projects.

(7) Accordingly, it is the intent of the Legislature to alleviate these burdens by imposing a fee on shipping containers processed through those ports and using the funds derived therefrom to do all of the following:

(A) Improve the rail system that serves as an alternative to shipping via the highway by commercial vehicle, including, but not limited to, the ondock rail facilities at those ports.

(B) Enhance the security at the ports.

(C) Mitigate the environmental pollution caused by port operations.

(b) (1) There is hereby established in the State Treasury the Port Congestion Relief Trust Fund, which for purposes of this chapter shall be referred to as the Congestion Fund.

(2) There is hereby established in the State Treasury the Port Mitigation Relief Trust Fund, which for purposes of this chapter shall be referred to as the Relief Fund.

1746. (A) Beginning January 1, 2007, the Port of Los Angeles (port) shall develop a process for notifying the owner of, and collecting a user fee on the owner of, container cargo moving through the port.

(b) No later than June 1, 2007, the port shall notify the owner of cargo moving through the port that it will be assessed a user fee not to exceed \$30 per twenty-foot equivalent unit (TEU). The notice shall include, but not be limited to, the process for payment of the user fee, the frequency for payment of the user fee, and that the user fee is being assessed to improve the goods movement infrastructure serving the port, to reduce pollution from all forms of equipment, vehicles, locomotives, and ships that operate at the port and bring containers to and from the port, and to enhance the safety and security of the port.

(c) Beginning January 1, 2008, the port shall assess a user fee on the owner of container cargo moving through the port not to exceed \$30 per TEU. The port shall collect the fee at least twice a year.

(1) The port shall remit one-third of the user fee to the Congestion Fund. Upon appropriation, moneys deposited in that fund shall be available for expenditure by the California Transportation Commission exclusively for the purposes of funding rail projects that improve the rail system moving port container cargo to and from the Ports of Los Angeles and Long Beach, and funding the administrative costs of this program, pursuant to this section. Moneys deposited in that fund shall not be loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

(2) The port shall remit one-third of the user fee to the Relief Fund. Upon appropriation, moneys deposited in that fund shall be available to the State Air Resources Board to mitigate environmental pollution caused by the movement of cargo to and from the port by commercial motor vehicles, oceangoing vessels, and rail, and to fund the administrative costs for implementing

this program. Moneys deposited in that fund shall not be loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

(3) The port shall retain one-third of the user fee to fund port security programs authorized by this section.

(d) The port shall use the funds retained under paragraph (3) of subdivision (c) exclusively for the purpose of funding projects to improve the security of the port, and to fund the administrative costs for implementing this program. Moneys retained by the port shall not be loaned or transferred to, or allocated or appropriated in any other way to, the port's General Fund or be used in any manner not consistent with the authority granted under this section.

(e) Beginning January 1, 2007, the port shall develop a list of projects that would improve and enhance the security of the port. The port shall consult with the United States Coast Guard, the federal Department of Homeland Security, the state Office of Homeland Security, the Department of the California Highway Patrol, and other state and federal agencies that may assist the port in determining a list of projects best suited to protecting the port and its surrounding communities.

(f) No later than September 1, 2007, and at a public hearing, the port shall finalize a list of projects that would improve and enhance the security of the port. This will be the final list, of port security projects at the port eligible to be funded by the user fee authorized pursuant to this chapter. The port may determine, at a regularly scheduled public hearing, that other sources of security funding are sufficient to protect the port and surrounding communities. If this finding is made, the port shall not collect and retain one-third of the user fee for port security, but shall only collect the remaining two-thirds or \$20 per TEU for infrastructure and air quality improvements.

(g) When all of the projects approved for funding under subdivision (d) are either complete and funded by the user fee or determined by the port to be no longer necessary, the port shall notify cargo owners that the user fee will be reduced by one-third. After this notification, the port shall reduce the user fee by one-third and no longer retain one-third of the user fee for port security funding.

1747. (a) Beginning January 1, 2007, the Port of Long Beach (port) shall develop a process for notifying the owner of, and collecting a user fee on the owner of, container cargo moving through the port.

(b) No later than June 1, 2007, the port shall notify the owner of cargo moving through the port that it will be assessed a user fee not to exceed \$30 per twenty-foot equivalent unit (TEU). The notice shall include, but not be limited to, the process for payment of the user fee, the frequency for payment of the user fee, and that the user fee is being assessed to improve the goods movement infrastructure serving the port, to reduce pollution from all forms of equipment, vehicles, locomotives, and ships that operate at the port and bring containers to and from the port, and to enhance the safety and security of the port.

(c) Beginning January 1, 2008, the port shall assess a user fee on the owner of container cargo moving through the port not to exceed \$30 per TEU. The port shall collect the fee at least twice a year.

(1) The port shall remit one-third of the user fee to the Congestion Fund. Upon appropriation, moneys deposited in that fund shall be available for expenditure by the California Transportation Commission exclusively for the purposes of funding rail projects that improve the rail system moving port container cargo to and from the Ports of Los Angeles and Long Beach, and funding the administrative costs of this program, pursuant to this section. Moneys deposited in that fund shall not be loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

(2) The port shall remit one-third of the user fee to the Relief Fund. Upon appropriation, moneys deposited in that fund shall be available to the State Air Resources Board to mitigate environmental pollution caused by the movement of cargo to and from the ports via commercial motor vehicles, oceangoing vessels, and rail, and to fund the administrative costs for implementing this program. Moneys deposited in that fund shall not be loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

(3) The port shall retain one-third of the user fee to fund port security programs authorized by this section.

(d) The port shall use the funds retained under paragraph (3) of subdivision (c) exclusively for the purpose of funding projects to improve the security of the port, and to fund the administrative costs for implementing this program. Moneys retained by the port shall not be loaned or transferred to, or allocated or appropriated in any other way to, the port's General Fund or be used in any manner not consistent with the authority granted under this section.

(e) Beginning January 1, 2007, the port shall develop a list of projects that would improve and enhance the security of the port. The port shall consult with the United States Coast Guard, the federal Department of Homeland Security, the state Office of Homeland Security, the Department of the California Highway Patrol, and other state and federal agencies that may assist the port in determining a list of projects best suited to protecting the port and its surrounding communities.

(f) No later than September 1, 2007, and at a public hearing, the port shall finalize a list of projects that would improve and enhance the security of the port. This will be the final list, of port security projects at the port, eligible to be funded by the user fee authorized pursuant to this section. The port may determine, at a regularly scheduled public hearing, that other sources of security funding are sufficient to protect the port and surrounding communities. If this finding is made, the port shall not collect and retain one-third of the user fee for port security, but shall only collect the remaining two-thirds or \$20 per TEU for infrastructure and air quality improvements.

(g) When all of the projects approved for funding under subdivision (d) are either complete and funded by the user fee or determined by the port to be no longer necessary, the port shall notify cargo owners that the user fee will be reduced by one-third. After this notification, the port shall reduce the user fee by one-third and no longer retain one-third for port security funding.

1748. (a) Beginning January 1, 2007, the California Transportation Commission, shall develop a list of projects that alleviate congestion on the highways serving the Ports of Los Angeles and Long Beach and improve the overall efficiency of container cargo movement by improving the rail system that transports container cargo from and to those ports and the ondock

rail facilities at those ports. In the process for selecting projects, the commission shall consult with the transportation commissions for the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura, and the Port and City of Los Angeles, the Port and City of Long Beach, and the Southern California Association of Governments. The commission shall also hold public hearings to seek further input on developing these projects.

(b) No later than September 1, 2007, the commission, at a public hearing, shall finalize a list of projects that would alleviate the congestion on the highways serving the Ports of Los Angeles and Long Beach and improve the overall efficiency of container cargo movement by improving the rail system that transports container cargo from and to those ports and the ondock rail facilities at those ports. This will be the final list, of infrastructure projects at the Ports of Los Angeles and Long Beach, eligible to be funded by the user fee authorized pursuant to this chapter.

(c) Projects eligible to be on the final list shall not be used to construct, maintain, or improve highways, unless the highway or road improvement is part of a rail grade separation.

(d) Once the projects on the final list are complete and fully funded, the commission shall notify the Ports of Los Angeles and Long Beach, that the infrastructure projects are complete and to no longer collect the one-third of the user fee for infrastructure projects. The commission may also make a finding that a project on the final list has either been funded by another source or is no longer worthy of funding.

1749. (a) Beginning January 1, 2007, the State Air Resources Board shall develop a list of projects that reduce air pollution caused by the movement of container cargo to and from the Ports of Los Angeles and Long Beach. The projects on the list shall be consistent with the Emission Reduction Plan adopted March 2006, and shall have the overall goal of reducing air pollution at the ports in order to reach federal air quality attainment standards. The goal of the projects shall be to meet the plan's goals for 2010, 2015, and 2020. In developing the list, the board shall consult with the South Coast Air Quality Management District, the Gateway Council of Governments, and the Ports of Los Angeles and Long Beach.

(b) No later than September 1, 2007, the State Air Resources Board, at a public hearing, shall finalize a list of projects that meeting the Emission Reduction Plan's goals for 2010, 2015, and 2020, in order to meet federal air quality attainment standards.

(c) The State Air Resources Board may determine, at a public hearing, that the emission reduction goals for 2020 have been met or exceeded and that federal air quality standards have been met at the Port of Los Angeles and once the determination is made, and ensuring that all approved projects have been funded, the board shall notify the Port of Los Angeles of this determination, and the Port of Los Angeles shall no longer collect the one-third of the user fee for air quality projects meant to reach these goals and federal air quality attainment standards.

(d) The State Air Resources Board may determine, at a public hearing, that the emission reduction goals for 2020 have been met or exceeded and that federal air quality standards have been met at the Port of Long Beach and once the determination is made, and ensuring that all approved projects have been funded, the board shall notify the Port of Long Beach of this determination, and the Port of Long Beach shall no longer collect the one-third of the user fee for air quality projects meant to reach these goals and federal air quality attainment standards.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Approved _____, 2006

Governor